IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.110 OF 2005

Smt. Kusum Ashok Kene ..Petitioner.

V/s.

District Deputy Registrar,Thane & Ors. ..Respondents.

Mr.D.B.Patil with Meenakshi Patil for petitioner

Mr.D.A.Patil AGP for respondents.

CORAM : F.I.REBELLO, J.

DATED : 19TH JANUARY, 2005.

P.C. :-

1. The nomination of petitioner was rejected. He, therefore, filed an appeal as available within a period of 10 days as contemplated. There is another candidate whose nomination has been validly accepted. That candidate has not been made party to appeal preferred by petitioner herein. It is the contention of the petitioner that the other candidate had filed caveat and he was present at the hearing of the appeal. Merely because caveat was filed, would not amount to the caveator being added as party. It was incumbent on the petitioner herein to join all validly nominated candidates as party to the

petition, within time contemplated. That being the case, appeal as filed was not properly constituted. Even in the present petition, present petitioner is challenging the order rejecting the appeal preferred by petitioner herein without joining the other validly nominated candidate.

2. The learned counsel seeking to add the caveator before the Appellate Court as party to the present proceeding. To my mind in the absence of caveator as party before the Appellate Court there is no question to permit the petitioner for the first time to add caveator as respondent in the present petition.

3. Two Division Benches of this court one in Shri Tukaram Hari Khamkar v/s Bharat Urban Co-op.Bank Ltd. dated 7th December 1982 in writ petition No.204/1982 and Kishore Rajaram Sawant v/s The Returning Officer & others in LPA142/1996 dated 26th July 1996 have taken a view that in the matter of co-operative society presence of all validly nominated candidates are required to make the appeal competent. The law will be the same here also. Considering the above, no interference call for. Petition rejected.

4. Certified copy is expedited.

(F.I. Rebello, J.)